

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 ANTONIO LOPEZ, JR.
Deputy Attorney General
4 State Bar No. 206387
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2536
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 3984

13 **AARON FRANCIS PATACSYL**
20318 Belshire Avenue
Lakewood, CA 90715

A C C U S A T I O N

14 Pharmacy Technician License No. TCH
15 104252

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about June 24, 2010, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 104252 to Aaron Francis Patacsil (Respondent). The
24 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
25 brought herein and will expire on December 31, 2011, unless renewed.

26 **JURISDICTION**

- 27 3. This Accusation is brought before the Board, under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 provides, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

7. Section 4301 provides, in pertinent part:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or

1 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
2 whether the act is a felony or misdemeanor or not.

3

4 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
5 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
6 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
7 to the extent that the use impairs the ability of the person to conduct with safety to the public the
8 practice authorized by the license.

9

10 "(j) The violation of any of the statutes of this state, or any other state, or of the United
11 States regulating controlled substances and dangerous drugs.

12

13 "(l) The conviction of a crime substantially related to the qualifications, functions, and
14 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
15 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
16 substances or of a violation of the statutes of this state regulating controlled substances or
17 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
18 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
19 The board may inquire into the circumstances surrounding the commission of the crime, in order
20 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
21 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
22 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
23 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
24 of this provision. The board may take action when the time for appeal has elapsed, or the
25 judgment of conviction has been affirmed on appeal or when an order granting probation is made
26 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
27 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
28 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or

1 indictment.

2

3 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
4 violation of or conspiring to violate any provision or term of this chapter or of the applicable
5 federal and state laws and regulations governing pharmacy, including regulations established by
6 the board or by any other state or federal regulatory agency."

7 8. Section 4060 provides, in pertinent part:

8 "No person shall possess any controlled substance, except that furnished to a person upon
9 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
10 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
11 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
12 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
13 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
14 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052."

15 **REGULATORY PROVISIONS**

16 9. California Code of Regulations, title 16, section 1770, provides, in pertinent part:

17 "For the purpose of denial, suspension, or revocation of a personal or facility license
18 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
19 crime or act shall be considered substantially related to the qualifications, functions or duties of a
20 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
21 licensee or registrant to perform the functions authorized by his license or registration in a manner
22 consistent with the public health, safety, or welfare."

23 **DRUG STATUTES**

24 10. Health and Safety Code section 11350, subdivision (a), provides, in pertinent part:

25 "Except as otherwise provided in this division, every person who possess (1) any controlled
26 substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054,
27 specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in
28 subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2)

1 any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
2 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in
3 this state, shall be punished by imprisonment in the state prison."

4 11. Health and Safety Code section 11377, subdivision (a), provides in pertinent part:

5 "Except as authorized by law and as otherwise provided in subdivision (b) or Section
6 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the
7 Business and Professions Code, every person who possesses any controlled substance which is
8 (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in
9 subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d),
10 (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2)
11 or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section
12 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to
13 practice in this state, shall be punished by imprisonment in a county jail for a period of not more
14 than one year or in the state prison."

15 **COST RECOVERY**

16 12. Section 125.3 provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licentiate found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 **CONTROLLED SUBSTANCES-DANGEROUS DRUGS**

21 13. Alprazolam is a Schedule IV controlled substance as designated by Health and Safety
22 Code section 11057(d)(1), and is categorized as a dangerous drug pursuant to Business and
23 Professions Code section 4022.

24 14. Benzodiazepine is a Schedule IV controlled substance as designated by Health and
25 Safety Code section 11057 (d), and is categorized as a dangerous drug pursuant to Business and
26 Professions Code section 4022.

27 15. Darvocet and Darvon are combination drugs containing Propoxyphene and
28 acetaminophen, are Schedule IV controlled substance as designated by Health and Safety Code

1 section 11057(c)(2), and categorized as a dangerous drug pursuant to Business and Professions
2 Code section 4022.

3 16. Hydroxine is an antihistamine used treat anxiety, to relieve itching caused by allergic
4 conditions, and to cause drowsiness. It is categorized as a dangerous drug pursuant to Business
5 and Professions Code section 4022.

6 17. Methamphetamine, a (CNS) central nervous system stimulant, is a Schedule II
7 controlled substance as designated by Health and Safety Code section 11055, subdivision (d)(2),
8 and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Conviction of a Substantially-Related Crime)**

11 18. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
12 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
13 Respondent has been convicted of a crime substantially related to the qualifications, functions or
14 duties of a pharmacy technician, as follows:

15 a. On or about December 10, 2010, after pleading *guilty*, Respondent was convicted of
16 one misdemeanor count of violating Vehicle Code section 23152, subdivision (a) [driving under
17 the influence of alcohol or drugs]; and one misdemeanor count of violating Business and
18 Professions code section 4060 [possession of a controlled substance without a prescription], in the
19 criminal proceeding entitled *The People of the State of California v. Aaron Francis Patacsil*
20 (Super. Ct. Orange County, 2010, No. 10WM11545). The Court placed Respondent on probation
21 for a period of 3 years and fined him. The circumstances surrounding the conviction are that on
22 or about July 15, 2010, Respondent was involved in a solo traffic collision, and a California
23 Highway Patrol Officer was called to the scene. While at the collision scene, the officer found
24 four different unlabeled pill containers, next to the damaged vehicle. The pills were identified as
25 follows: 1 (Darvocet), 2 (Hydroxine), 4 (Trazodone HCl), 6 (Methamphetamine), 6 (Alprazolam),
26 8 Benzodiazepine), and 1 unknown 1/2 white round pill. The officer interviewed Respondent
27 who was identified as the driver of the vehicle, at the hospital emergency room. The officer
28 observed Respondent with red watery eyes, and slurred speech. Respondent admitted to the

1 officer that the pills belonged to him. Respondent stated, "that he was taking a class to become a
2 Pharmacy Technician and got them as samples to try out." Respondent also admitted to
3 consuming two to three beers in the afternoon before the collision. Respondent was given a
4 (HGN) Horizontal Gaze Nystagmus Field Sobriety Test, and showed signs of impairment.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Possession of a Controlled Substance without a Valid Prescription)**

7 19. Respondent is subject to disciplinary action under sections 4060, 4300, and 4301,
8 subdivision (l), on the grounds of unprofessional conduct for violating Health and Safety Code
9 section 11055, subdivision (d)(2), in that on or about July 15, 2010, Respondent was arrested for
10 possession of controlled substances. Complainant refers to and by this reference incorporates the
11 allegations set forth above in paragraph 18, subparagraph (a), inclusive, as though set forth fully.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Violating Drug Statutes)**

14 20. Respondent is subject to disciplinary action under sections 4300 and 4301,
15 subdivision (j), in that Respondent did possess various controlled substances in violation of
16 Health and Safety Code sections 11350, subdivision (a), and 11377, subdivision (a). Complainant
17 refers to and by this reference incorporates the allegations set forth above in paragraph 18,
18 subparagraph (a), inclusive, as though set forth fully.

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PRAYER

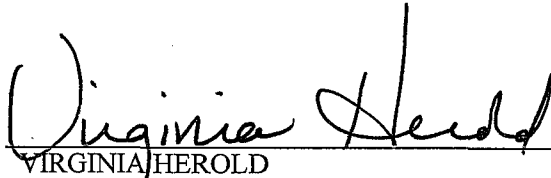
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Pharmacy Technician Registration No. TCH 104252, issued to Aaron Francis Patacsil;

2. Ordering Aaron Francis Patacsil to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 3/22/12



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

LA2011500905